

Exhibit 5

SONJA ERICKSON

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| <p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND</p> <p>—o—</p> <p>IN RE MICROSOFT CORPORATION) ANTITRUST LITIGATION,)</p> <p>))</p> <p>This Document Relates to:))) MED. Docket No. 1332) JPM 02-CV-3898</p> <p>Burst.com, Inc. v. Microsoft) Corp,)</p> <p>Civil Action No.) C-02-2930-VKW)</p> <p>_____)</p> <p>DEPOSITION OF SONJA ERICKSON</p> <p><u>October 31, 2003</u></p> <p>REPORTED BY: SARAH LUCIA BRANN, CER 3887 (01-341642)</p> | <p>1 9 Email string, the first dated 44 December 4, 2000 to Mr. Erickson from Mr. Egan, document numbers BUR000441 and 70543</p> <p>2</p> <p>3 10 Email dated March 1, 2000 to Mr. Egan 47 from Mr. Erickson with attachments, document numbers BUR000479 through 52480</p> <p>4</p> <p>5 11 Email string, the first dated 49 January 24, 2001 to Mr. Egan from Mr. Erickson, document numbers BUR000494 and 70547</p> <p>6</p> <p>7 12 Email string, the first dated 51 February 14, 2001 to Mr. Erickson from Mr. Egan, document numbers BUR000500 and 70554</p> <p>8</p> <p>9 13 Email dated March 1, 2001 to Mr. Egan 54 from Mr. Erickson, document number BUR000503</p> <p>10</p> <p>11 14 Email string, the first dated 56 February 23, 2001 to Mr. Erickson from Mr. Egan, document numbers BUR000510 and 70754</p> <p>12</p> <p>13 15 Email string, the first dated 59 September 19, 2000 to Mr. Egan from Mr. Erickson, document number BUR000540 and 80000</p> <p>14</p> <p>15 16 Document entitled "BSC Software Demo 60 Project Plan," document numbers BUR000570 through 60072</p> <p>16</p> <p>17 17 Email dated October 24, 2000 to 67 Mr. Egan and Mr. Erickson from Mr. Egan, document numbers BUR000594 and 61392</p> <p>18</p> <p>19 18 Email dated December 21, 2000 to 71 Mr. Egan from Mr. Erickson, document number BUR000602</p> <p>20</p> <p>21 19 Email string, the first dated 72 January 4, 2001 to Mr. Egan from Mr. Erickson, document numbers BUR000620 through 60000</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 3</p> |
| <p>1 INDEX PAGE</p> <p>2</p> <p>3 Examination by Mr. Ryan 7</p> <p>4</p> <p>5</p> <p>6 ERICKSON EXHIBITS MARKED FOR IDENTIFICATION</p> <p>7</p> <p>8 1 Email dated August 24, 2000 to Steve Sangery . 21 and Mr. Erickson from Mr. Jacobs, document numbers BUR0008352 and 83353</p> <p>9</p> <p>10 2 Email dated July 26, 2000 to seven 23 addressees from Hyecheol Shim, document number BUR00015618</p> <p>11</p> <p>12 3 PowerPoint slides entitled "Web Hosting 23 Training originally attached to Exhibit 2, document numbers BUR0015775 through 15779 and BUR0015780 through 15831</p> <p>13</p> <p>14 4 Supplemented Response of Burst.com, Inc. 31 to Second Set of Interrogatories Propounded by Microsoft Corp.</p> <p>15</p> <p>16 5 Email dated October 25, 2000 to four 34 addressees from Mr. Erickson with attached spreadsheets, document numbers BUR0001356 through 61359</p> <p>17</p> <p>18 6 Email dated April 24, 2000 to five 37 addressees from Mr. Dahl, document number BUR0004829</p> <p>19</p> <p>20 7 Email dated May 15, 2000 to Mr. Menkowitz ... 38 and Mr. Erickson from Mr. Paulner, document number BUR0004807</p> <p>21</p> <p>22 8 Email dated October 13, 2000 to Mr. Egan 41 from Mr. Erickson, document number BUR0001401</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p> | <p>1 20 Email string, the first dated 75 January 5, 2001 to Mr. Egan from Mr. Erickson, document numbers BUR00080990 through 80992</p> <p>2</p> <p>3</p> <p>4 21 Email string, the first dated 75 January 11, 2001 to Mr. Erickson from Mr. Egan, document numbers BUR00091625 through 91627</p> <p>5</p> <p>6 22 Email dated January 12, 2001 to Min Lee, 77 Mr. Erickson, and Mr. Erickson from Mr. Egan, document number BUR00091620</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 4</p> |

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| 1 be able to recover anything lost within the previous | 08:22:19 | 1 nothing to preserve these persons' files or emails? | 08:25:45 |
| 2 five to seven days? | 08:22:23 | 2 MR. BISHOP: Object. Compound. Are you | 08:25:50 |
| 3 A. Yeah. | 08:22:27 | 3 talking about personal computers, or files on other -- | 08:25:52 |
| 4 Q. Do you recall ever having to recover? | 08:22:28 | 4 MR. RYAN: They weren't personal computers | 08:25:55 |
| 5 A. Yes. | 08:22:32 | 5 when they were at the company. | 08:25:56 |
| 6 Q. And under what circumstances? | 08:22:33 | 6 MR. BISHOP: Well, I mean personal computer is | 08:25:57 |
| 7 A. I recall people deleting -- this isn't | 08:22:47 | 7 the same as a PC, a desktop or a laptop, regardless of | 08:25:59 |
| 8 specific, so I recall people deleting -- it's more | 08:22:48 | 8 who owned it, as opposed to a file server. Do you see | 08:26:06 |
| 9 people deleting things in the moment and then coming and | 08:22:53 | 9 what I mean? | 08:26:09 |
| 10 saying, "Oh, I deleted something. Can you get it back?" | 08:22:55 | 10 MR. RYAN: Let me try it again. | 08:26:10 |
| 11 So, it was very instantaneous. So, usually it was | 08:22:59 | 11 Q. To your knowledge, when the layoffs occurred | 08:26:17 |
| 12 within 24 hours, but... | 08:23:03 | 12 in 2000, did the company do anything to preserve the | 08:26:22 |
| 13 Q. Now, what types of documents would be on the | 08:23:07 | 13 emails or other company documents in the possession of | 08:26:30 |
| 14 servers that were backed up in the range of five to | 08:23:12 | 14 the people who were laid off? | 08:26:35 |
| 15 seven days? You mentioned emails. What else? | 08:23:18 | 15 MR. BISHOP: I am going to object again, in | 08:26:36 |
| 16 A. Emails is the one that I recall. The other | 08:23:21 | 16 that it's indefinite as to the computer, type of | 08:26:38 |
| 17 servers I don't recall. Servers that were just general | 08:23:26 | 17 computer, type of file, or others. | 08:26:43 |
| 18 file servers, or even -- I believe we had a server that | 08:23:29 | 18 MR. RYAN: I didn't even mention computer. I | 08:26:46 |
| 19 had all the financial information on it and things like | 08:23:32 | 19 said emails or other records. | 08:26:47 |
| 20 that. I don't recall. | 08:23:35 | 20 MR. BISHOP: Right. But they may appear on a | 08:26:50 |
| 21 Q. Do you recall that Burnt laid off many of its | 08:23:45 | 21 variety of computers. | 08:26:52 |
| 22 employees in November of 2000? | 08:23:48 | 22 MR. RYAN: I don't care how they appeared. I | 08:26:54 |
| 23 A. Yes. | 08:23:49 | 23 want to know if the company did anything to preserve | 08:26:55 |
| 24 Q. Was anything done when those employees left to | 08:23:50 | 24 them. | 08:26:58 |
| 25 preserve their files, either paper files, if you know, | 08:23:54 | 25 MR. BISHOP: I know what you want to know, but | 08:26:58 |
| Page 13 | | Page 15 | |
| 1 or -- | 08:23:59 | 1 there were a number of computers, and that's the basis | 08:27:00 |
| 2 A. I don't know. | 08:23:59 | 2 of my objection. | 08:27:08 |
| 3 Q. -- or electronic files? | 08:24:00 | 3 Anyway, Sonja, if you understand the question, | 08:27:08 |
| 4 A. I don't know. | 08:24:02 | 4 you are free to go ahead and answer it, if you have | 08:27:08 |
| 5 Q. Did you do anything? | 08:24:02 | 5 knowledge. | 08:27:09 |
| 6 A. Not that I recall. | 08:24:04 | 6 THE WITNESS: In the case of systems that | 08:27:10 |
| 7 Q. What would happen to employees' computers and | 08:24:24 | 7 people worked on day-to-day that were on their desks | 08:27:17 |
| 8 files when they left? | 08:24:27 | 8 that we then sold to them, no. | 08:27:21 |
| 9 A. They were recycled, wiped out, reinstalled, | 08:24:36 | 9 MR. RYAN: Q. What about paper files? | 08:27:29 |
| 10 and given to other people. | 08:24:45 | 10 A. I don't recall. | 08:27:33 |
| 11 Q. Were -- when there was a layoff in November of | 08:24:48 | 11 Q. And what about servers? | 08:27:46 |
| 12 2000, were other people hired? | 08:24:52 | 12 MR. BISHOP: What's the question? | 08:27:47 |
| 13 A. No. | 08:24:55 | 13 MR. RYAN: Some question. | 08:27:48 |
| 14 Q. So, at that time -- I can understand you would | 08:24:58 | 14 MR. BISHOP: Could you ask a complete | 08:27:49 |
| 15 recycle and give to other people when the company was -- | 08:25:01 | 15 question? | 08:27:50 |
| 16 A. Mm-hmm. | 08:25:05 | 16 MR. RYAN: Look, she knows what the question | 08:27:51 |
| 17 Q. -- losing people and bringing more in. | 08:25:05 | 17 is. | 08:27:53 |
| 18 A. Mm-hmm. | 08:25:09 | 18 MR. BISHOP: I am not trying to be difficult, | 08:27:54 |
| 19 Q. Would that have occurred in November of 2000, | 08:25:09 | 19 Tom. I just think it's clear if you ask a question. | 08:27:55 |
| 20 when it was just people being laid off? | 08:25:11 | 20 MR. RYAN: Everyone here knows what the | 08:28:00 |
| 21 A. No. At that time, when the massive layoffs | 08:25:14 | 21 question is. We want to know what if anything was done | 08:28:02 |
| 22 occurred, the company decided to sell the equipment to | 08:25:20 | 22 to preserve files. | 08:28:04 |
| 23 the employees that were laid off. | 08:25:27 | 23 MR. BISHOP: For the servers. Thank you. | 08:28:08 |
| 24 Q. And just to be sure I have got it, at the time | 08:25:41 | 24 THE WITNESS: The thing that I remember most | 08:28:15 |
| 25 the people left, the company to your knowledge did | 08:25:44 | 25 in the efforts to preserve the code line, that that was | 08:28:16 |
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| 1 | done very deliberately and specifically, and given to | 08:28:24 | 1 | A. Yes. | 08:32:23 |
| 2 | multiple people to store on CD. | 08:28:28 | 2 | Q. -- network providers? | 08:32:24 |
| 3 | As far as the other servers go, the mail -- I | 08:28:36 | 3 | A. Yes. | 08:32:25 |
| 4 | know there were a couple servers that we -- that when | 08:28:48 | 4 | Q. What all equipment did Burst acquire to enter | 08:32:36 |
| 5 | everything happened we didn't touch, and were just | 08:28:51 | 5 | into the hosting service market? | 08:32:43 |
| 6 | handed over to, I would guess -- I am not sure who it | 08:28:55 | 6 | A. A variety of servers. Different types. Sun | 08:32:50 |
| 7 | was. It was Richard or Eric, Richard Long or Eric | 08:29:03 | 7 | servant, Dell server, network equipment, Cisco network | 08:32:54 |
| 8 | Watson. I believe one of those was the mail server. I | 08:29:10 | 8 | equipment, Foundry network equipment. | 08:32:59 |
| 9 | know that -- I would be guessing as to what other | 08:29:16 | 9 | Q. What about software? | 08:33:04 |
| 10 | servers were handed over to them. | 08:29:20 | 10 | A. Software meaning? Well, Burst ran its own -- | 08:33:06 |
| 11 | MR. RYAN: Q. Do you recall any instruction | 08:29:34 | 11 | I mean, Burstware was the software that we ran, | 08:33:15 |
| 12 | whichever to people who were leaving or to people who | 08:29:35 | 12 | video-on-demand service. That was the product of the | 08:33:19 |
| 13 | were staying to retain emails and other documents in | 08:29:38 | 13 | company. As far as operating systems, we ran Linux and | 08:33:23 |
| 14 | hard copy when they -- at any point in time? | 08:29:42 | 14 | NT, Microsoft NT. | 08:33:30 |
| 15 | A. No. | 08:29:47 | 15 | Q. And I think you have already answered this | 08:33:34 |
| 16 | Q. Was there any document retention policy in | 08:29:54 | 16 | question. The manpower requirements by Burst to enter | 08:33:36 |
| 17 | place at Burst? | 08:29:59 | 17 | into this was in the range of eight to ten people? | 08:33:43 |
| 18 | A. No. | 08:30:00 | 18 | A. Yes. | 08:33:47 |
| 19 | Q. Was there any document retention practice in | 08:30:06 | 19 | Q. All of whom were technologically oriented? | 08:33:49 |
| 20 | place at Burst? | 08:30:09 | 20 | A. Yes. | 08:33:54 |
| 21 | MR. BISHOP: Object. Vague as to what is | 08:30:10 | 21 | Q. Would they be in general college graduates, | 08:33:54 |
| 22 | meant by practice. | 08:30:23 | 22 | or... | 08:33:58 |
| 23 | If you understand the question, you can | 08:30:24 | 23 | A. I don't know. Some yes, some no. | 08:34:03 |
| 24 | answer. | 08:30:26 | 24 | Q. Do you recall how much money was invested by | 08:34:13 |
| 25 | THE WITNESS: I would say there wasn't any | 08:30:32 | 25 | Burst to enter the hosting market? | 08:34:17 |
| Page 17 | | | Page 19 | | |
| 1 | official document retention policy. | 08:30:34 | 1 | A. No. | 08:34:20 |
| 2 | MR. RYAN: Q. Or general practice? | 08:30:36 | 2 | Q. Do you have a range in that? | 08:34:21 |
| 3 | MR. BISHOP: Object. Vague. | 08:30:37 | 3 | A. I don't recall. | 08:34:23 |
| 4 | THE WITNESS: I don't know what certain | 08:30:39 | 4 | Q. Did it reach 100,000? | 08:34:24 |
| 5 | individuals did. | 08:30:41 | 5 | MR. BISHOP: Objection. Lack of foundation. | 08:34:27 |
| 6 | MR. RYAN: Q. What about the people in your | 08:30:44 | 6 | Calls for speculation. | 08:34:28 |
| 7 | department? | 08:30:45 | 7 | THE WITNESS: I can guess. | 08:34:33 |
| 8 | A. I would say no. | 08:30:53 | 8 | MR. RYAN: Q. Please don't guess. | 08:34:36 |
| 9 | Q. Each person made their own decision? | 08:30:54 | 9 | A. Okay. | 08:34:37 |
| 10 | A. About their documents, yeah. | 08:30:57 | 10 | Q. Would it be your recollection that it would be | 08:34:41 |
| 11 | Q. What is hosting? | 08:31:02 | 11 | under 500,000? | 08:34:44 |
| 12 | A. Hosting is, in the IT industry, it's when you | 08:31:06 | 12 | MR. BISHOP: Objection. Calls for | 08:34:45 |
| 13 | install some servers and infrastructure at what is | 08:31:15 | 13 | speculation. Lack of foundation. | 08:34:46 |
| 14 | called a co-location facility, and the facility is | 08:31:18 | 14 | MR. RYAN: I asked for her recollection. | 08:34:48 |
| 15 | responsible for the network connectivity for you in the | 08:31:24 | 15 | MR. BISHOP: Same objection. | 08:34:50 |
| 16 | Internet. And so you say your service or your systems | 08:31:28 | 16 | MR. RYAN: Q. Would that be a guess, too? | 08:35:01 |
| 17 | are hosted by someone else. It means you don't do it | 08:31:35 | 17 | A. Mm-hmm. | 08:35:03 |
| 18 | yourself in your own facility. | 08:31:38 | 18 | Q. Okay. | 08:35:03 |
| 19 | Q. And so this service was one that was provided | 08:31:44 | 19 | A. Yes. | 08:35:04 |
| 20 | by Burst? | 08:31:48 | 20 | Q. When Burst entered the hosting market do you | 08:35:14 |
| 21 | A. The technology and the computers and the | 08:31:51 | 21 | know how many competitors there were in that market? | 08:35:17 |
| 22 | know-how was provided by Burst. The network in terms of | 08:32:00 | 22 | A. No. | 08:35:28 |
| 23 | the Internet and how you move traffic across it was | 08:32:07 | 23 | Q. Can you name any competitors in the hosting | 08:35:29 |
| 24 | provided by different carriers, or hosting providers. | 08:32:12 | 24 | services market? | 08:35:33 |
| 25 | Q. Did Burst contract with those -- | 08:32:19 | 25 | MR. BISHOP: You mean at the time, I assume. | 08:35:35 |
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